

The Honorable J. Richard Creatura

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IAN SIMMERS,

Plaintiff,

v.

KING COUNTY; the CITY OF BOTHELL;  
DET. EDWARD J. HOPKINS; Sergeant.  
CLEMENT RUSK; DET. REBECCA  
MINER; DET. JOHN MCSWAIN; DET.  
PAT RAFTUS; DET. KEN BAXTER;  
CHIEF MARK ERICKS; DET. SGT.  
DAVID SCHLAEGEL; and MAJ.  
JACKSON BEARD; Unknown Officers of  
the City of Bothell Police Department; and  
Unknown Sheriff Deputies of King County,

Defendants.

No. 2:21-CV-00100-JRC

ANSWER AND AFFIRMATIVE  
DEFENSES OF DEFENDANTS CITY  
OF BOTHELL, EDWARD HOPKINS,  
REBECCA (MINER) DONLEY, MARK  
ERICKS AND DAVID SCHLAEGEL

**JURY DEMAND**

Defendants City of Bothell, Edward Hopkins, Rebecca (Miner) Donley, Mark Ericks, and David Schlaegel (hereafter collectively “the City Defendants”), in answer to Plaintiff’s Complaint, admit, deny and allege as follows:

**COMPLAINT**

1. The City Defendants admit Plaintiff was 16 years old when he was arrested, prosecuted for and convicted of the 1995 murder of Rodney Gochanaur. The City Defendants deny the remaining allegations in paragraph 1.

2. The City Defendants admit the Bothell Police Department (BPD)

ANSWER OF DEFENDANTS CITY OF BOTHELL,  
HOPKINS, MINER, ERICKS AND SCHLAEGEL  
2:21-CV-00100-JRC

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1 investigated Plaintiff for the murder of Rodney Gochanaur. The City Defendants deny the  
2 remaining allegations in paragraph 2.

3 3. The City Defendants admit Plaintiff confessed to Rodney Gochanaur's  
4 murder. The City Defendants deny the remaining allegations in paragraph 3.

5 4. The City Defendants deny the allegations in paragraph 4.

6 5. The City Defendants admit Plaintiff was prosecuted as an adult and  
7 sentenced to a term of confinement in prison. The City Defendants deny the remaining  
8 allegations in paragraph 5.

9 6. The City Defendants admit Plaintiff's conviction for the murder of Rodney  
10 Gochanaur was vacated and Plaintiff served a term of confinement for that conviction. The  
11 City Defendants deny the remaining allegations in paragraph 6.

12 7. The City Defendants admit Plaintiff alleges claims under the United States  
13 Constitution and Washington state law. The balance of paragraph 7 states argument that  
14 requires no answer. Notwithstanding the foregoing, the City Defendants deny the same.

### 15 JURISDICTION AND VENUE

16 8. Paragraph 8 states contentions of law that require no answer and is therefore  
17 denied.

18 9. Paragraph 9 states contentions of law that require no answer and is therefore  
19 denied.

### 20 THE PARTIES

21 10. The City Defendants admit Plaintiff served a term of confinement for the  
22 murder of Rodney Gochanaur. The City Defendants lack knowledge or information  
23 sufficient to answer the remainder of paragraph 10 and therefore deny the same.

24 11. The City Defendants admit Defendants Hopkins, Schlaegel and Donley  
25 (Miner) were officers employed by the BPD during the investigation and prosecution of  
26 Plaintiff for the murder of Rodney Gochanaur. The remaining allegations in paragraph 11  
27 state contentions of law that require no answer and are therefore denied.



1           12.     The City Defendants admit Defendant Ericks was Chief of Police for the  
2 BPD during the investigation and prosecution of Plaintiff for the murder of Rodney  
3 Gochanaur. The remainder of paragraph 12 state contentions of law that require no answer  
4 and are therefore denied.

5           13.     Paragraph 13 does not state allegations of fact to which the City Defendants  
6 can respond. Notwithstanding the foregoing, the City Defendants deny the same.

7           14.     Paragraph 14 states allegations of fact that are not directed to the City  
8 Defendants and, therefore, require no answer. Notwithstanding the foregoing, the City  
9 Defendants deny the same.

10          15.     Paragraph 15 states allegations of fact that are not directed to the City  
11 Defendants and, therefore, require no answer. Notwithstanding the foregoing, the City  
12 Defendants deny the same.

13          16.     Paragraph 16 states allegations of fact that are not directed to the City  
14 Defendants and, therefore, require no answer. Notwithstanding the foregoing, the City  
15 Defendants deny the same.

16          17.     Paragraph 17 states allegations of fact that are not directed to the City  
17 Defendants and, therefore, require no answer. Notwithstanding the foregoing, the City  
18 Defendants deny the same.

19          18.     Paragraph 18 states allegations of fact that are not directed to the City  
20 Defendants and, therefore, require no answer. Notwithstanding the foregoing, the City  
21 Defendants deny the same.

22          19.     Paragraph 19 states contentions of law that require no answer.  
23 Notwithstanding the foregoing, the City Defendants deny the same.

24          20.     The City Defendants admit the City of Bothell is a municipal corporation  
25 that employed Defendants Hopkins, Schlaegel, Donley (Miner) and Ericks during the  
26 investigation and prosecution of Plaintiff for the murder of Rodney Gochanaur. The  
27 remaining allegations in paragraph 20 state contentions of law that require no answer and



1 factual allegations not directed at the City Defendants, who nevertheless deny the same.

2 21. The City Defendants admit passers-by discovered the body of Rodney  
3 Gochanaur on Saturday, March 11, 1995 near the Burke-Gilman trail in Bothell.

4 22. The City Defendants admit the BPD investigated the murder of Rodney  
5 Gochanaur, that multiple BPD officers responded to the scene of his murder, and that  
6 Defendants Schlaegel, Hopkins and (Miner) Donley were among the responding BPD  
7 officers. The City Defendants deny the remaining allegations contained in paragraph 22.

8 23. The City Defendants admit the allegations contained in paragraph 23.

9 24. The City Defendants admit Rodney Gochanaur's body revealed wounds to  
10 his hands, face and torso and that there was blood evidence at the scene. The City  
11 Defendants deny the remaining allegations contained in paragraph 24.

12 25. The City Defendants admit the allegations contained in paragraph 25.

13 26. The City Defendants deny the allegations contained in paragraph 26.

14 27. The City Defendants admit Detective Hopkins learned information during  
15 the investigation of Rodney Gochanaur's murder, including that Rodney Gochanaur lived in  
16 Bothell with a family member, had been drinking with Hope Fleischacker in Woodinville  
17 the evening before his body was discovered, and that he owed money to an individual. The  
18 City Defendants deny the remaining allegations contained in paragraph 27.

19 28. The City Defendants admit the allegations contained in paragraph 28.

20 29. The City Defendants deny the allegations contained in paragraph 29.

21 30. The City Defendants deny the allegations contained in paragraph 30.

22 31. The City Defendants deny the allegations contained in paragraph 31.

23 32. The City Defendants admit the BPD conducted an investigation into the  
24 murder of Rodney Gochanaur, that Plaintiff was prosecuted for and convicted of the murder  
25 of Rodney Gochanaur, and that Defendant Ericks was aware of the investigation,  
26 prosecution and conviction of Plaintiff. The City Defendants lack knowledge or information  
27 regarding the remaining allegations in paragraph 32 and, therefore, deny the same.



1           33.     The City Defendants admit the allegations contained in paragraph 30.

2           34.     The City Defendants admit Plaintiff and John Wyatt were arrested on March  
3 15, 1995 for engaging in numerous crimes. The City Defendants deny the remaining  
4 allegation in paragraph 34.

5           35.     The City Defendants admit Plaintiff and John Wyatt were arrested on March  
6 15, 1995 for engaging in numerous crimes. The City Defendants deny the remaining  
7 allegation in paragraph 35.

8           36.     The City Defendants deny the allegations contained in paragraph 36.

9           37.     The City Defendants admit Plaintiff and John Wyatt were arrested on March  
10 15, 1995 for engaging in numerous crimes and that at the time of their arrests, Plaintiff and  
11 John Wyatt were ages 16 and 14, respectively. The City Defendants deny the remaining  
12 allegation in paragraph 37.

13          38.     The City Defendants deny the allegations contained in paragraph 38.

14          39.     The City Defendants deny the allegations contained in paragraph 39.

15          40.     The City Defendants deny the allegations contained in paragraph 40.

16          41.     The City Defendants deny the allegations contained in paragraph 41.

17          42.     The City Defendants deny the allegations contained in paragraph 42.

18          43.     The City Defendants deny the allegations contained in paragraph 43.

19          44.     The City Defendants deny the allegations contained in paragraph 44.

20          45.     The City Defendants deny the allegations contained in paragraph 45.

21          46.     The City Defendants deny the allegations contained in paragraph 46.

22          47.     The City Defendants deny the allegations contained in paragraph 47.

23          48.     The City Defendants admit the BPD questioned Plaintiff regarding the  
24 murder of Rodney Gochanaur. The City Defendants deny the remainder of paragraph 48.

25          49.     The City Defendants deny the allegations contained in paragraph 49.

26          50.     The City Defendants deny the allegations contained in paragraph 50.

27          51.     The City Defendants deny the allegations contained in paragraph 51.



1           52.     The City Defendants deny the allegations contained in paragraph 52.

2           53.     The City Defendants deny the allegations contained in paragraph 53.

3           54.     The City Defendants deny the allegations contained in paragraph 54.

4           55.     The City Defendants deny the allegations contained in paragraph 55.

5           56.     The City Defendants deny the allegations contained in paragraph 56.

6           57.     The City Defendants deny the allegations contained in paragraph 57.

7           58.     The City Defendants deny the allegations contained in paragraph 58.

8           59.     The City Defendants deny the allegations contained in paragraph 59.

9           60.     The City Defendants deny the allegations contained in paragraph 60.

10          61.     The City Defendants deny the allegations contained in paragraph 61.

11          62.     The City Defendants admit Plaintiff was arrested on March 15, 1995 for

12 engaging in numerous crimes, that Plaintiff was questioned regarding the murder of Rodney

13 Gochanaur, and that at the time of his arrest and questioning, Plaintiff 16 years old. The

14 City Defendants deny the remainder of paragraph 62.

15          63.     The City Defendants deny the allegations contained in paragraph 63.

16          64.     The City Defendants deny the allegations contained in paragraph 64.

17          65.     The City Defendants admit that during the questioning of Plaintiff,

18 Defendants Hopkins and Rusk suggested to Plaintiff that the murder victim (Rodney

19 Gochanaur) may have accosted people on the Burke-Gilman trail prior to his murder. The

20 City Defendants deny the remainder of paragraph 65.

21          66.     The City Defendants deny the allegations contained in paragraph 66.

22          67.     The City Defendants deny the allegations contained in paragraph 67.

23          68.     The City Defendants deny the allegations contained in paragraph 68.

24          69.     The City Defendants admit Plaintiff confessed to the murder of Rodney

25 Gochanaur, during which confession Plaintiff disclosed details of Rodney Gochanaur's

26 murder that would only be known to the perpetrator of that crime. The City Defendants

27 deny the remainder of paragraph 69.



1           70.     The City Defendants deny the allegations contained in paragraph 70.

2           71.     The City Defendants deny the allegations contained in paragraph 71.

3           72.     The City Defendants deny the allegations contained in paragraph 72.

4           73.     The City Defendants admit that during the questioning of Plaintiff,  
5 Defendants Hopkins and Rusk suggested to Plaintiff that the murder victim (Rodney  
6 Gochanaur) may have accosted people on the Burke-Gilman trail prior to his murder. The  
7 City Defendants further admit Plaintiff disclosed to Defendants Hopkins and Rusk that he  
8 had obtained a knife from an apartment complex cabana prior to the murder of Rodney  
9 Gochanaur. The City Defendants deny the remainder of paragraph 73.

10          74.     The City Defendants admit Plaintiff confessed to the murder of Rodney  
11 Gochanaur, during which confession Plaintiff disclosed details of Rodney Gochanaur's  
12 murder that would only be known to the perpetrator of that crime. The City Defendants  
13 deny the remainder of paragraph 74.

14          75.     The City Defendants deny the allegations contained in paragraph 75.

15          76.     The City Defendants deny the allegations contained in paragraph 76.

16          77.     The City Defendants deny the allegations contained in paragraph 77.

17          78.     The City Defendants admit that during questioning by Defendants Hopkins  
18 and Rusk, Plaintiff stated that "the victim was a regular guy and not a gangster" and that  
19 Plaintiff had killed thirteen people, but that they were gangsters who "deserved killing."  
20 The City Defendants deny the remainder of paragraph 78.

21          79.     The City Defendants deny the allegations contained in paragraph 79.

22          80.     The City Defendants deny the allegations contained in paragraph 80.

23          81.     The City Defendants admit Plaintiff confessed to the murder of Rodney  
24 Gochanaur, during which confession Plaintiff disclosed details of Rodney Gochanaur's  
25 murder that would only be known to the perpetrator of that crime, and that confession was  
26 tape-recorded with Plaintiff's permission. The City Defendants deny the remainder of  
27 paragraph 81.



1           82.     The City Defendants deny the allegations contained in paragraph 82.

2           83.     The City Defendants deny the allegations contained in paragraph 83.

3           84.     The City Defendants deny the allegations contained in paragraph 84.

4           85.     The City Defendants deny the allegations contained in paragraph 85.

5           86.     The City Defendants admit Plaintiff confessed to the murder of Rodney  
6 Gochanaur, during which confession Plaintiff disclosed details of Rodney Gochanaur's  
7 murder that would only be known to the perpetrator of that crime, that the Plaintiff's  
8 confession was tape-recorded with Plaintiff's permission, and that Plaintiff's recorded  
9 confession to the murder of Rodney Gochanaur was used as part of his prosecution for the  
10 murder of Rodney Gochanaur. The City Defendants deny the remainder of paragraph 86.

11          87.     The City Defendants admit Plaintiff and John Wyatt were arrested on March  
12 15, 1995 for engaging in numerous crimes and that prior to questioning Plaintiff and John  
13 Wyatt, Defendants Hopkins and Rusk did not have information proving Plaintiff had  
14 murdered Rodney Gochanaur. The City Defendants deny the remainder of paragraph 87.

15          88.     The City Defendants deny the allegations contained in paragraph 88.

16          89.     The City Defendants deny the allegations contained in paragraph 89.

17          90.     The City Defendants deny the allegations contained in paragraph 90.

18          91.     The City Defendants admit Plaintiff described the knife he used to murder  
19 Rodney Gochanaur in a manner he believed would suggest that he did not murder Rodney  
20 Gochanaur. The City Defendants deny the remainder of paragraph 91.

21          92.     The City Defendants deny the allegations contained in paragraph 92.

22          93.     The City Defendants deny the allegations contained in paragraph 93.

23          94.     The City Defendants deny the allegations contained in paragraph 94.

24          95.     The City Defendants deny the allegations contained in paragraph 95.

25          96.     The City Defendants deny the allegations contained in paragraph 96.

26          97.     The City Defendants deny the allegations contained in paragraph 97.

27          98.     The City Defendants deny the allegations contained in paragraph 98.



1           99.     The City Defendants deny the allegations contained in paragraph 99.

2           100.   The City Defendants admit Plaintiff was prosecuted as an adult and  
3 sentenced to a term of confinement in prison. The City Defendants deny the remainder of  
4 paragraph 100.

5           101.   The City Defendants admit the BPD investigated Plaintiff for the murder of  
6 Rodney Gochanaur. The City Defendants deny the remainder of paragraph 101.

7           102.   The City Defendants admit the BPD investigated Plaintiff for the murder of  
8 Rodney Gochanaur pursuant to BPD practices and customs and that no BPD officer was  
9 disciplined, retrained, or sanctioned in any way for their role in that investigation. The City  
10 Defendants deny the remainder of paragraph 102.

11          103.   The City Defendants admit the BPD was aware in 1995 that the BPD was  
12 required to protect the constitutional rights of juvenile suspects. The City Defendants deny  
13 the remainder of paragraph 103.

14          104.   The City Defendants admit the BPD was aware in 1995 that the BPD must  
15 exercise care in the questioning juvenile suspects. The City Defendants deny the remainder  
16 of paragraph 104.

17          105.   Paragraph 105 states an allegation of law that requires no answer and is  
18 therefore denied.

19          106.   Paragraph 106 states an allegation of law that requires no answer. To the  
20 extent Paragraph 106 states factual allegations, the City Defendants deny the same.

21          107.   Paragraph 107 states an allegation of law that requires no answer. To the  
22 extent Paragraph 107 states factual allegations, the City Defendants deny the same.

23          108.   The City Defendants deny the allegations contained in paragraph 108.

24          109.   The City Defendants deny the allegations contained in paragraph 109.

25          110.   The City Defendants deny the allegations contained in paragraph 110.

26          111.   The City Defendants admit on information and belief that Plaintiff served  
27 approximately 23 years of the term of confinement to which he was sentenced for the



1 murder of Rodney Gochanaur, deny Plaintiff is “an innocent man,” and lack knowledge or  
2 information regarding Plaintiff’s alleged harms and, therefore, deny the allegations  
3 regarding the same.

4 112. The City Defendants admit Plaintiff’s conviction for the murder of Rodney  
5 Gochanaur was vacated. The City Defendants deny the remainder of paragraph 112.

6 113. The City Defendants admit Plaintiff’s conviction for the murder of Rodney  
7 Gochanaur was vacated. The City Defendants deny the remainder of paragraph 113.

8 114. The City Defendants deny “misconduct” and lack knowledge or information  
9 regarding Plaintiff’s alleged pain and suffering and, therefore, deny the same.

10 115. The City Defendants deny the allegations contained in paragraph 115.

11 116. The City Defendants lack knowledge or information regarding Plaintiff’s  
12 alleged subjective feelings and, therefore, deny the same.

13 117. The City Defendants lack knowledge or information regarding Plaintiff’s  
14 alleged subjective experiences and, therefore, deny the same.

15 118. The City Defendants deny the allegations contained in paragraph 118.

16 119. The City Defendants deny the allegations contained in paragraph 119.

17 120. The City Defendants admit Plaintiff’s conviction for murdering Rodney  
18 Gochanaur was vacated. The City Defendants lack knowledge or information regarding  
19 Plaintiff’s purported subjective plans or goals and, therefore, deny the same.

20 121. The City Defendants admit Plaintiff alleges constitutional claims. The City  
21 Defendants deny the remainder of paragraph 121.

22 **COUNT 1 – FEDERAL LAW**  
23 **FIFTH AND FOURTEENTH AMENDMENTS**  
**(SELF-INCRIMINATION, RIGHT TO COUNSEL)**

24 122. Each paragraph of this Answer is incorporated as if restated fully herein.

25 123. The City Defendants deny the allegations contained in paragraph 123.

26 124. The City Defendants deny the allegations contained in paragraph 124.

27 125. The City Defendants deny the allegations contained in paragraph 125.



126. The City Defendants deny the allegations contained in paragraph 126.

127. The City Defendants deny the allegations contained in paragraph 127.

128. The City Defendants deny the allegations contained in paragraph 128.

129. The City Defendants deny the allegations contained in paragraph 129.

**COUNT 2 – FEDERAL LAW  
FOURTEENTH AMENDMENT (DUE PROCESS)**

130. Each paragraph of this Answer is incorporated as if restated fully herein.

131. The City Defendants deny the allegations contained in paragraph 131.

132. The City Defendants deny the allegations contained in paragraph 132.

133. The City Defendants deny the allegations contained in paragraph 133.

134. The City Defendants deny the allegations contained in paragraph 134.

135. The City Defendants deny the allegations contained in paragraph 135.

136. The City Defendants deny the allegations contained in paragraph 136.

**COUNT 3 – FEDERAL LAW  
SIXTH AND FOURTEENTH AMENDMENTS (DUE PROCESS, FAIR TRIAL)**

137. Each paragraph of this Answer is incorporated as if restated fully herein.

138. The City Defendants deny the allegations contained in paragraph 138.

139. The City Defendants deny the allegations contained in paragraph 139.

140. The City Defendants deny the allegations contained in paragraph 140.

141. The City Defendants deny the allegations contained in paragraph 141.

142. The City Defendants deny the allegations contained in paragraph 142.

143. The City Defendants deny the allegations contained in paragraph 143.

144. The City Defendants deny the allegations contained in paragraph 144.

**COUNT 4 – FEDERAL LAW  
FOURTH AMENDMENT (DETENTION WITHOUT PROBABLE CAUSE)**

145. Each paragraph of this Answer is incorporated as if restated fully herein.

146. The City Defendants deny the allegations contained in paragraph 146.

147. The City Defendants deny the allegations contained in paragraph 147.

148. The City Defendants deny the allegations contained in paragraph 148.



149. The City Defendants deny the allegations contained in paragraph 149.

150. The City Defendants deny the allegations contained in paragraph 150.

151. The City Defendants deny the allegations contained in paragraph 151.

152. The City Defendants deny the allegations contained in paragraph 152.

**COUNT 5 – FEDERAL LAW  
FAILURE TO INTERVENE**

153. Each paragraph of this Answer is incorporated as if restated fully herein.

154. The City Defendants deny the allegations contained in paragraph 154.

155. The City Defendants deny the allegations contained in paragraph 155.

156. The City Defendants deny the allegations contained in paragraph 156.

157. The City Defendants deny the allegations contained in paragraph 157.

**COUNT 6 – FEDERAL LAW  
CONSPIRACY TO DEPRIVE CONSTITUTIONAL RIGHTS**

158. Each paragraph of this Answer is incorporated as if restated fully herein.

159. The City Defendants deny the allegations contained in paragraph 159.

160. The City Defendants deny the allegations contained in paragraph 160.

161. The City Defendants deny the allegations contained in paragraph 161.

162. The City Defendants deny the allegations contained in paragraph 162.

163. The City Defendants deny the allegations contained in paragraph 163.

164. The City Defendants deny the allegations contained in paragraph 164.

165. The City Defendants deny the allegations contained in paragraph 165.

**COUNT 7 – FEDERAL LAW  
MUNICIPAL LIABILITY FOR BOTHELL AND KING COUNTY**

166. Each paragraph of this Answer is incorporated as if restated fully herein.

167. The City Defendants deny the allegations contained in paragraph 167.

168. The City Defendants admit the BPD undertook the investigation of Rodney Gochanaur's murder pursuant to BPD policies and practices. The City Defendants deny the remainder of paragraph 168.

169. The City Defendants deny the allegations contained in paragraph 169.



170. The City Defendants deny the allegations contained in paragraph 170.

171. The City Defendants deny the allegations contained in paragraph 171.

172. The City Defendants deny the allegations contained in paragraph 172.

173. The City Defendants deny the allegations contained in paragraph 173.

174. The City Defendants deny the allegations contained in paragraph 174.

175. The City Defendants deny the allegations contained in paragraph 175.

176. The City Defendants admit the BPD undertook the investigation of Rodney Gochanaur's murder pursuant to BPD policies and practices. The City Defendants deny the remainder of paragraph 176.

177. The City Defendants deny the allegations contained in paragraph 177.

178. The City Defendants deny the allegations contained in paragraph 178.

179. The City Defendants deny the allegations contained in paragraph 179.

180. The City Defendants deny the allegations contained in paragraph 180.

181. The City Defendants deny the allegations contained in paragraph 181.

**COUNT 8 – STATE LAW  
MALICIOUS PROSECUTION**

182. Each paragraph of this Answer is incorporated as if restated fully herein.

183. The City Defendants deny the allegations contained in paragraph 183.

184. The City Defendants deny the allegations contained in paragraph 184.

185. The City Defendants deny the allegations contained in paragraph 185.

186. The City Defendants deny the allegations contained in paragraph 186.

187. The City Defendants deny the allegations contained in paragraph 187.

188. The City Defendants deny the allegations contained in paragraph 188.

**COUNT 9 – STATE LAW  
OUTRAGE**

189. Each paragraph of this Answer is incorporated as if restated fully herein.

190. The City Defendants deny the allegations contained in paragraph 190.

191. The City Defendants deny the allegations contained in paragraph 191.



192. The City Defendants deny the allegations contained in paragraph 192.

193. The City Defendants deny the allegations contained in paragraph 193.

**COUNT 10 – STATE LAW  
CIVIL CONSPIRACY**

194. Each paragraph of this Answer is incorporated as if restated fully herein.

195. The City Defendants deny the allegations contained in paragraph 195.

196. The City Defendants deny the allegations contained in paragraph 196.

197. The City Defendants deny the allegations contained in paragraph 197.

198. The City Defendants deny the allegations contained in paragraph 198.

**COUNT 11 – STATE LAW  
RESPONDEAT SUPERIOR**

199. Each paragraph of this Answer is incorporated as if restated fully herein.

200. The City Defendants admit the BPD and BPD employees acting in the course and scope of their employment with the BPD investigated Plaintiff for the murder of Rodney Gochanaur. The City Defendants deny the remainder of paragraph 200.

201. Paragraph 201 states a contention of law that requires no answer and is therefore denied.

**COUNT 12 – STATE LAW  
NEGLIGENCE**

202. Each paragraph of this Answer is incorporated as if restated fully herein.

203. Paragraph 203 states a contention of law that requires no answer and is therefore denied.

204. The City Defendants deny the allegations contained in paragraph 204.

205. The City Defendants deny the allegations contained in paragraph 205.

206. The City Defendants deny the allegations contained in paragraph 206.

207. The City Defendants deny the allegations contained in paragraph 207.

**COUNT 13 – STATE LAW  
INDEMNIFICATION**

208. Each paragraph of this Answer is incorporated as if restated fully herein.



209. The City Defendants admit the BPD undertook the investigation of Rodney Gochanaur's murder. The City Defendants deny the remainder of paragraph 209.

210. Paragraph 210 states a contention of law that requires no answer and is therefore denied.

The City Defendants further deny every allegation stated herein unless admitted.

The City Defendants deny Plaintiff is entitled to the relief requested in this suit.

The City Defendants reserve the right to amend and supplement their Answer to this Complaint as new information is discovered.

## JURY DEMAND

The City Defendants demand a jury, pursuant to Fed.R.Civ.Pro. 5(d) and 38(b).

BY WAY OF AFFIRMATIVE DEFENSES, the City Defendants allege:

1. Plaintiff's claims against the City Defendants are barred by the doctrines of *res judicata* and/or collateral estoppel.

2. Plaintiff's alleged injuries and damages were proximately caused or contributed to by Plaintiff's fault, intentional conduct and/or negligent conduct.

3. The City Defendants' actions herein alleged manifest a reasonable exercise of judgment and discretion by authorized public officials made in the exercise of governmental authority entrusted to them by law and are not actionable.

4. Plaintiff fails to state a claim upon which relief may be granted.

5. By murdering Rodney Gochanaur, Plaintiff assumed the risk that he would be investigated, prosecuted, convicted and sentenced to a term of confinement.

6. The City Defendants at all times acted in good faith in the performance of their duties and are therefore immune from suit for the matters charged.

7. If Plaintiff suffered any damages, recovery may be barred by Plaintiff's failure to mitigate said damages.

8. The damages and/or injuries sustained by Plaintiff, if any, may have been proximately caused by the negligent actions and/or omissions of third persons over whom



1 the City Defendants had no control.

2 9. The damages and/or injuries sustained by Plaintiff, if any, may have been  
3 caused by another party to this lawsuit over whom the City Defendants had no control.  
4 Any award of damages to Plaintiff against City Defendants must be reduced by the  
5 percentage of fault attributable to each at fault party pursuant to RCW 4.22.070.

6 10. Plaintiff's claims against the individual defendants are precluded by  
7 immunity.

8 11. Plaintiff has failed to allege an actionable policy or practice by Defendant  
9 City of Bothell under his Section 1983 claim.

10 12. Plaintiff's state law claims may be barred by his failure to comply with the  
11 claim filing statute.

12 13. Plaintiff's claims may be barred by the statute of limitations.

13 14. If Plaintiff sustained any injury or damage, the same was the result of  
14 reasonable conduct and required conduct of Defendants under the circumstances and was  
15 excusable and justifiable.

16 15. Plaintiff's claims may be barred by reason of laches.

17 16. Plaintiff's claims may be barred by equitable and/or judicial estoppel.

18 17. Plaintiff's claims may be barred to the extent his claims imply the invalidity  
19 of criminal convictions or sentences that have not been overturned or vacated.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, the City Defendants pray for the following relief:

22 1. That Plaintiff's Complaint be dismissed with prejudice and that Plaintiff take  
23 nothing by his Complaint;

24 2. That the City Defendants be allowed their statutory costs and reasonable  
25 attorney fees incurred herein; and  
26



DATED this 22nd day of February, 2021.

By: /s/ Paul J. Triesch  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 22, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

**Attorneys for Plaintiff**

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